

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, Colorado 80527-2400

## PATENT APPLICATION

ATTORNEY DOCKET NO. 200316365-1IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Chuck A. Black

Confirmation No.: 1425

Application No.: 10/761,088

Examiner: Brian J. Gillis

Filing Date: January 20, 2004

Group Art Unit: 2141

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Title: NETWORK AND NETWORK DEVICE HEALTH MONITORING

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PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEFTransmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on September 29, 2008.☒ The fee for filing this Appeal Brief is \$540.00 (37 CFR 41.20).☐ No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:☐ 1st Month  
\$130☐ 2nd Month  
\$490☐ 3rd Month  
\$1110☐ 4th Month  
\$1730☐ The extension fee has already been filed in this application.☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 540. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Date of facsimile: 10/27/2008

Typed Name: Alison L. Subendran

Signature: Alison L. Subendran

Respectfully submitted,

Chuck A. Black

By Edward J. Brooks III

Edward J. Brooks III

Attorney/Agent for Applicant(s)

Reg No. : 40,925

Date : 10/27/2008

Telephone : (612) 236-0120

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Attorney/Agent for Applicant(s)

Reg No. : 40,825

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OCT 27 2008

Docket No.: 200316365-1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/761,088  
Appellants: : Chuck A. Black  
Filed: : January 20, 2004  
TC/A.U. : 2141  
Examiner: : Brian J. Gillis  
Title : NETWORK AND NETWORK DEVICE HEALTH  
MONITORING

**APPEAL BRIEF**

MS APPEAL BRIEF-PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir or Madame:

This brief, in compliance with 37 C.F.R. § 41.37, is in furtherance of the Notice of Appeal filed under 37 C.F.R. § 41.31 on September 29, 2008.

This brief is accompanied by the fee set forth in 37 CFR § 41.20(b)(2), as described in the accompanying TRANSMITTAL OF APPEAL BRIEF.

10/28/2008 PCHOMP 00000015 002025 10761088  
01 FC:1402 540.00 DA

This brief contains items under the following headings as required by 37 C.F.R. § 41.37:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims Appendix
- IX. Evidence Appendix
- X. Related Proceedings Appendix

Page 33 of this brief bears the attorney's signature.

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The real parties in interest for this appeal are:

A. The Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"); and

B. HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

**II. RELATED APPEALS AND INTERFERENCES**

Appellant is unaware of any related appeal or interference.

**III. STATUS OF CLAIMS**

A. Total Claims: 1-39

B. Current Status of Claims:

1. Claims canceled: none
2. Claims withdrawn: none
3. Claims pending: 1-39
4. Claims allowed: none
5. Claims rejected: 1-39
6. Claims objected to: none

C. Claims on Appeal: 1-39

**RECEIVED  
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No claims have been amended, cancelled, or added subsequent to the Final Office Action mailed August 22, 2008.

**V. SUMMARY OF CLAIMED SUBJECT MATTER****A. Independent claim 1**

Independent claim 1 recites a network management station (page 4, lines 26-31; page 5, lines 9-11 and 14-18; page 6, lines 28-33; page 7, line 33, through page 8, line 3; page 10, lines 5-7 and 11-12; page 11, lines 21-27; page 11, line 31, through page 12, line 2; page 12, lines 4-7; and Figure 1 at 112) that includes a processor (page 5, lines 8-13 and 16-18) and a memory coupled to the processor (page 5, lines 8-13 and 16-18).

The network management station also includes program instructions provided to the memory and executable by the processor (page 5, lines 14-20; page 10, lines 3-10; page 11, lines 4-12) to transmit a network management message to a device connected to the network management station over a network (Abstract; page 3, line 32, through page 4, line 3; page 4, line 12, through page 5, line 7; page 5, lines 24-26; page 11, lines 18-29; page 15, lines 5-7; Figure 1 at 100, 110-1, 110-2, 110-3, 110-4, 110-5, 110-6, 110-7, 110-8, 110-9, 114-1, . . . , 114-N, 115-1, . . . , 115-M, 116-1, 116-2, 116-3, 116-4, 118-1, 118-2, 118-3, 118-4, 118-5, and 120; Figure 2 at 210; and Figure 3 at 310), collect response information from the device based on the network management message (Abstract; page 3, line 32, through page 4, line

3; page 5, lines 21-26; page 6, line 28, through page 7, line 2; page 7, lines 14-21; page 11, line 30, through page 12, line 2; page 13, lines 8-12; page 15, lines 7-10; Figure 2 at 220; and Figure 3 at 320), receive unsolicited information from the device (Abstract; page 4, lines 3-4; page 5, line 27, through page 6, line 16; page 6, line 25, though page 7, line 2; page 7, lines 14-21; page 12, lines 3-14; page 12, line 32, through page 13, line 7; page 15, lines 7-10; Figure 2 at 230; and Figure 3 at 320), and analyze the response information and the unsolicited information, which include information regarding device memory utilization (page 6, lines 6-10; page 7, lines 5-11; page 8, lines 10-12 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), buffer utilization (page 7, lines 5-11; page 8, lines 12-14 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 12, lines 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), local area network (LAN) utilization (page 6, lines 6-10; page 10, line 31, through page 11, line 2; and page 12, lines 7-10), and cyclical redundancy checking (CRC) (page 7, lines 5-11; page 8, lines 12-14; page 10, lines 22-26; page 12, lines 7-10 and 24-27; page 12, line 32, through page 13, line 6; and page 14, lines 28-30), according to a set of heuristics to provide a health measurement of the device (Abstract; page 4, lines 5-8; page 6, lines 6-12 and 17-27; page 7, lines 3-17; page 7, line 30, through page 10, line 3; page 10, line 11, through page 11, line 2; page 12, lines 7-10; page 12, line 15, through page 13, line 6; page 13, line 14,

through page 15, line 2; page 15, lines 7-24; Figure 2 at 240; and Figure 3 at 320 and 330).

Independent claim 1 is argued together with dependent claims 2-11.

1. Claim 2 is dependent from independent claim 1 and recites that the network management station further includes program instructions that execute to compare device processor utilization (page 6, lines 6-10; page 7, lines 5-11 and 14-17; page 8, lines 8-10 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), device memory utilization (page 6, lines 6-10; page 7, lines 5-11; page 8, lines 10-12 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), LAN utilization (page 6, lines 6-10; page 10, line 31, through page 11, line 2; and page 12, lines 7-10), errors (page 7, lines 5-11 and 14-17; page 8, lines 12-14; page 9, lines 15-24; page 10, lines 22-26; page 12, lines 7-10 and 24-27; page 12, line 32, through page 13, line 6; page 14, lines 28-30; page 15, lines 7-10; and Figure 3 at 320), and trap information (page 7, lines 5-11 and 14-17; page 8, lines 12-14 and 16-18; page 9, lines 15-24; page 12, lines 24-27; page 12, line 32, through page 13, line 6; page 13, lines 21-23; page 15, lines 7-10; and Figure 3 at 320) with one or more thresholds as parameters to the set of heuristics (page 7, lines 5-11; page 7, line 30, through page 8, line 15; page 9, lines 15-24; page 12, lines 21-